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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/558,529	04/26/2000	Michael D. Stokes	203298	9677
23460	7590	11/06/2003	EXAMINER	
LEYDIG VOIT & MAYER, LTD TWO PRUDENTIAL PLAZA, SUITE 4900 180 NORTH STETSON AVENUE CHICAGO, IL 60601-6780			BHAT, ADITYA S	
		ART UNIT	PAPER NUMBER	2863

DATE MAILED: 11/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	Applicant(s)
09/558,529	STOKES, MICHAEL D.
Examiner Aditya S Bhat	Art Unit 2863

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 11 August 2003.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-18, 21 and 22 is/are allowed.
- 6) Claim(s) 19, 20 and 23-25 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 April 2000 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

## DETAILED ACTION

### ***Specification***

The substitute specification filed 11 August 2003 has not been entered because it does not conform to 37 CFR 1.125(b) and (c) because: a marked up version of the substitute specification showing the changes to the original specification was not attached.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 19-20 and 23-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Lippincott (USPN 6,459,825).

With regards to claim 19, Lippincott (USPN 6,459,825) teaches a method of achieving high color fidelity in a digital image capture device, comprising the steps of capturing color data from an image (Col. 9 Lines 35-40), normalizing the color data to both black and white (Col. 7, Lines 28-32), and compensating the normalized color data with a compensation matrix in the color space of the capture device (Col. 9, Lines 23-33).

With regards to claim 20, Lippincott (USPN 6,459,825) teaches the step of converting the compensated normalized color data from a color space of the capture device to a device independent color space. (Col. 9 lines 1-16)

With regards to claim 23, Lippincott (USPN 6,459,825).teaches a digital image capture device, comprising a memory storage element (Col.9, Lines 63-65) having stored therein a compensation matrix calculated as a regression of normalized raw color data from a test target and normalized measurement data from the test target converted to the color space of the capture device (Col. 9, Lines 23-33).

With regards to claim 24, Lippincott (USPN 6,459,825) teaches further comprising processing means(16;See figure 1) for normalizing captured color data of an image to black and white said processing means further compensating the normalized captured color data with the compensation matrix to achieve high color fidelity.(Col. 2 lines 30-39)

With regards to claim 25, Lippincott (USPN 6,459,825) teaches processing means further converts the compensated normalized color data from a color space of the capture device to a device independent color space .(Col. 2 lines 40-49)

#### ***Allowable Subject Matter***

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 1, 4, 7, 9, 21 and 22:

The primary reason for the allowance of claim 1 is the inclusion of the method steps of: converting the normalized measurement values to the digital image capture device white point chromaticity. It is this feature found in the claim(s), as it is claimed in

the combination that has not been found, taught or suggested by the prior art of record, which makes this claim allowable over the prior art.

The primary reason for the allowance of claim 4 is the inclusion of the method steps of: converting the normalized measurement values to the digital image capture device white point chromaticity comprises the step of using simplified Bradford white point adaptation equations to bring the normalized measurement values into the capture device color space. It is this feature found in the claim(s), as it is claimed in the combination that has not been found, taught or suggested by the prior art of record, which makes this claim allowable over the prior art.

The primary reason for the allowance of claim 7 is the inclusion of the method steps of: forcing a y-intercept of the regression to zero. It is this feature found in the claim(s), as it is claimed in the combination that has not been found, taught or suggested by the prior art of record, which makes this claim allowable over the prior art.

The primary reason for the allowance of claim 9 is the inclusion of the method steps of: verifying a level of color fidelity of the digital image capture device comprises the steps of matrix multiplying the first compensation matrix with the normalized raw color data to obtain predicted measurement values, comparing the normalized test target measurement values converted to the capture device white point with the predicted measurement values to obtain the CIE 1996 color difference including  $\Delta E^*$ CIE94 and checking  $\Delta E^*$ CIE94 against a predetermined threshold for acceptable color fidelity. These are the features found in the claim, as it is claimed in the

combination that has not been found, taught or suggested by the prior art of record, which makes this claim allowable over the prior art.

The primary reason for the allowance of claim 21 is the inclusion of the method steps of: converting the normalized measurement values to the digital image capture device white point chromaticity It is this feature found in the claim(s), as it is claimed in the combination that has not been found, taught or suggested by the prior art of record, which makes this claim allowable over the prior art.

The primary reason for the allowance of claim 22 is the inclusion of the method steps of: verifying a level of color fidelity of the digital image capture device by calculating color difference parameters between the normalized measurement values converted to the capture device color space and the normalized raw color data compensated by the compensation matrix in the capture device color space. It is this feature found in the claim(s), as it is claimed in the combination that has not been found, taught or suggested by the prior art of record, which makes this claim allowable over the prior art.

Claims 2-3 are allowed due to their dependency on claim 1.

Claims 5-6 are allowed due to their dependency on claim 4.

Claim 8 is allowed due to its dependency on claim 7.

Claims 10-18 are allowed due to their dependency on claim 9.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Response to Arguments***

Applicant's arguments filed 11 August 2003 have been fully considered but they are not persuasive with regards to claims 19-20 and 23-25.

During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

While the meaning of claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims; this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allowed. This means that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

In this instance the examiner feels that if the claimed invention is interpreted using the broadest possible meaning, then the Lippincott (USPN 6,459,825) teaching qualifies as prior art. As a result, claims 19-20 and 23-25 stand rejected over the prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aditya S Bhat whose telephone number is 703-308-0332. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 703-308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5841 for regular communications and 703-308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Aditya Bhat  
October 31, 2003



John Barlow  
Supervisory Patent Examiner  
Technology Center 2800